

Summer 6-1-1952

Law School Record, vol. 2. no. 1 (Summer 1952)

Law School Record Editors

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Recommended Citation

Law School Record Editors, "Law School Record, vol. 2. no. 1 (Summer 1952)" (1952). *The University of Chicago Law School Record*. Book 5.

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THE UNIVERSITY OF CHICAGO

The Law School Record



Volume 2

Chicago • Illinois

Number 1

The Law School at Mid-Century

This year, 1952-53, marks the Fiftieth Anniversary of the founding of The University of Chicago Law School. The original concept of the School, as made known in its first *Announcement* of June 2, 1902, included scientific research, training for the profession "in any jurisdiction in which the common law prevails," and close associations within the University, with the Courts and Bar, and among the law students and faculty. The ideal of the founders was an institution which in itself would symbolize the living law.

In this Fiftieth Anniversary year numerous conferences and events will celebrate the accomplishments of the founders and will appraise the problems and status of justice at this mid-century. The friends of The Law School, including the Bar generally, the Alumni, and scholars in law and related disciplines are invited to join with us on these commemorative occasions.

The anniversary year is one of growth as well as commemoration. Mary Beecher Hall has become The Law School Residence. It provides living quarters, dining facilities, and a central meeting place for law students and faculty. It gives us as well an immediately accessible guest suite for distinguished visitors. The Law School Residence has already greatly enriched the life of the students. As the founders wrote: "The constant and intimate association of the students with each other and with the faculty will lead to common work and stimulate interest in it, and will, it is hoped, furnish inspiration to students and teachers alike." Of immediate importance to our students also is the enlargement of our teaching fellowship program. The adaptation of the tutorial system to the needs of the American law school was first attempted in 1937 through the aid of a grant from the Carnegie Corporation to The University of Chicago Law School. The fact that many other law schools have now adopted such a program confirms us in our judgment as to the value of the experiment.

The conversion of Beecher Hall into The Law School Residence and the appointment of an additional teaching



President Theodore Roosevelt laying the Law School cornerstone.

fellow would not have been possible without the generous gift which resulted from the Alumni drive.

Roscoe Pound has written of James Parker Hall in the *Journal of Legal Education*: "He devoted himself to building up a great law school, a school of highest standards rigorously maintained and brought the institution to a leading place among American law schools." The Law School gains strength from this tradition of leadership. It is aware also of the continuing responsibilities which its history imposes upon it.

The Law Faculty has been augmented by the appoint-

ments of Roscoe Steffen, formerly Professor of Law at the Yale Law School; Karl Llewellyn, formerly Betts Professor of Jurisprudence at Columbia University; Soia Mentschikoff (Mrs. Karl Llewellyn), the first woman law professor at Harvard; and Allison Dunham, formerly Associate Professor of Law at Columbia. Professor John Jewkes of Oxford University will come to us for the academic year 1953-54 as Visiting Professor of Industrial Organization. These additions to our faculty are in the best traditions of the School.

This is not the place to write in detail of the work of individual members of the faculty, but perhaps it is allowable to make an exception and announce the forthcoming publication by the University of Chicago Press of Professor William Crosskey's *Politics and the Constitution: A History of the Government of the United States*. As Professor Crosskey's students will attest, this is no ordinary book; it is a monumental contribution to law and history.

From its beginning the Law School has been a national institution. The student body has always reflected wide geographic distribution. This continues to be the case. During the last year our students have also been helped by the National Honor Scholarships established by the University with the co-operation of selected liberal arts colleges throughout the country. These scholarships make it possible for young men and women who have shown qualities of leadership and ability to study law at Chicago. When in full operation the plan will provide for ninety students in residence at the School.

Additional important scholarship aid has been made available by the establishment of the Class of 1915 Scholarship and the James B. Blake Scholarship Fund, both of which are in operation for the first time. The Leo F. Wormser Scholarships have been extended through additional grants from the donors. Our student loan funds have also been greatly aided by the establishment of the Bernhardt Frank Loan Fund.

Alumni gifts have laid the foundation for the development at the School of a center for legal research. The Ford Foundation has made a grant of \$400,000 to the School for research in the area of law and the behavioral sciences to be conducted over a two- to three-year period. Under the terms of this grant three projects will be selected for intensive study from these areas: (1) law observance and infringement; (2) social institutions; (3) individual rights; and (4) the administration of justice. A preliminary selection of two of the projects already has been made, a study of the jury system as one project and an examination of arbitration as a quasi-legal system as the other. It is probable that the third project will be in the field of criminology. In addition to the work on the three selected projects, the Law Faculty will work with an advisory group to be appointed by it to plan a more detailed set of studies which might be undertaken in the future.

The Ford Foundation grant is undoubtedly one of the

most significant events in legal education. The choice of the University of Chicago Law School as the recipient of the grant is assuredly due in part to the close relationships which have developed over the years between the Law School and those departments in the University whose work lies in the behavioral sciences.

The responsibilities and burdens of the Law School are increased enormously by the acceptance of the grant. At the same time its opportunities are vastly widened. In the conduct of this research the Law School will stand as the representative of law schools generally and of those segments of the Bar which have long advocated the necessity of bringing to the law techniques properly analogous to those which are successfully employed in the biological and physical sciences.

The alumni of the School will be greatly interested in the decision of the American Bar Association to build its new headquarters on the Midway. This should make possible further collaboration with its committees.

The School has continued its close collaboration with the profession. The Commissioners on Uniform State Laws have concluded an arrangement for collaboration through seminars at the School on the preliminary drafting of legislation and the exploration of drafting problems. A somewhat similar joint program, although drafting is not its major focus, is now in operation between the Law School and the Council on State Governments. The research activities of the School in the area of trade regulations, taxation and labor law have been greatly aided by grants received from national corporations.

Thus the unified program of the School during the last year has resulted in additions to the faculty, increased scholarship aid to a student body drawn from all parts of the nation, the further development of student life within the Law School, and the creation of a research center. Most of these developments would not have taken place save for the extraordinary efforts of Glen A. Lloyd, President of the Alumni Association, and his associates, the members of the Alumni Board and of the Visiting Committee and the other many friends of the School among the Profession. It is a source of the greatest satisfaction that this Fiftieth Anniversary year finds the Law School in close co-operation with its alumni and with the Bar.

The ideal of the School continues to be that of an institution which in itself symbolizes the living law, through its dedication to teaching and research and through the creation of a community broadly conceived to include students, scholars, alumni, and the bar generally. It is an ideal which dwarfs particular events, overcomes deficiencies, and unites those who celebrate this Fiftieth Year.

Samuel H. Fessenden

The Adventures of Rollo

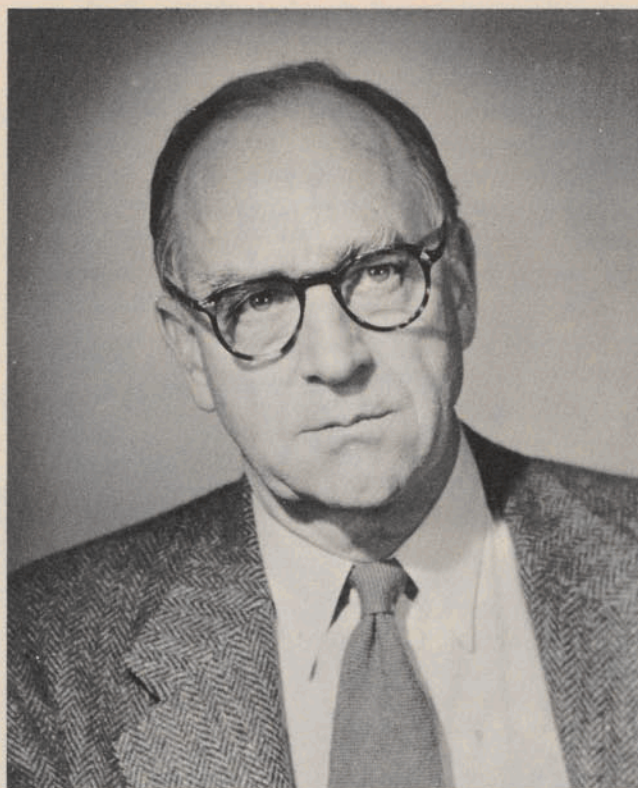
Opening Talk by PROFESSOR KARL LLEWELLYN in
His Elements Class

And so little Rollo came to the University of Chicago Law School. His heart was high, and his eyes were filled with shining stars, because little Rollo knew that the world was waiting on his coming. A world to be shaped by little Rollo! Because, after all, little Rollo had read the great books; and he thought large thoughts. Easily and lightly he could balance a large thought and bounce it the way a trick sea lion bounces a ball upon his nose. And little Rollo had not yet waked up to the fact that there is no more inhumane thing among the humanities than a great idea unaccompanied by the experience on which it rests, devoid of the human meaning test by test, man by man, experience by experience, that made the great idea great. So that the formula of formulas is a bubble for a sea lion to play with, and the job, for anybody, of understanding becomes a job of getting down to the cases, of getting down to the people, and getting down to the happenings and events, the loves and the hates, the greeds and the fears, that went into making the great idea a great idea, and gave it bite.

Most of all, of course, is that true of the lawyer. A theologian perhaps may be able to take a great idea, work with it as such, as a shining goal; and a philosopher may be able to get towered away from all the world around him enough to contemplate his navel and a great idea simultaneously; and a poet can dream great beauty and put it into words that will convey something of the dream.

But none of these is the lawyer's function as a lawyer. The lawyer is, instead, the man of measures. The lawyer is the man to whom you turn in a situation of human relations and human difficulties to find effective ways and means with teeth that cog into life and get the job done. Great ideas to a lawyer are lovely things—they are also completely, utterly, absolutely and irrevocably useless *in and of themselves*. The lawyer, I repeat, is the man of measures. The man who must devise effective ways and means with what's at hand for getting an inch or a foot or a mile closer to the great idea, and to the great goal. And that, of course, becomes a matter of the most desperately uncomfortable, hard, dirty, grubbing over technique, a matter of developing skill, a matter of developing patience along with skill.

Now Rollo appears to be commonly so clear about inheriting a world, that he forgets that what he inherits is a World. And a World is made up of people, made up of people organized in queer ways, people filled with queer and frequently very silly prejudices. At the same time the World provides a large body of tools that we sum up as a "culture"—with which you can work, but which cripple you as you work with them, because they limit and shape even as they afford leverage. And no-



Karl N. Llewellyn

where, again, is that truer than in law, and in the tradition of law—that great tradition of the law of which the Dean spoke yesterday in particular application to some phases of legal education and of this school in particular.

This is something that lies very close to my own experience. One frequently makes points clearest on the basis of things that have cost him. I am (with one exception, who is my coeval in the matter) the senior in the teaching game on this faculty. My work goes back to the days when I could look some of the giants who made the first reputation of this school in the face, and I even had the pleasure of working with one and another of them. In some ways indeed I am in the direct line of succession, for example, from Daddy Mechem. He was the foremost man in American Commercial Law at the turn of the century. He was succeeded by Samuel Williston in that particular aspect of his work; and Williston (constantly citing Mechem on Sales) drafted the Uniform Sales Act which is essentially the basic law of the country today on the central aspect of Commercial Law. In turn it has been given to me to draft the statute which will succeed the Williston statute as carrying on that piece of Commercial Law. So that Daddy Mechem is in a sense at least my granduncle in this field. Yet as one looks back to the history of Commercial Law in this country, one sees that there have been, from the beginning, two radically different traditions running along side by side. One of them made things look simple in law, even when they were really complex; and chose lines of seeming simplicity which did not

fit the life-situation, and thus kept things—for lawyers and for laymen—in what one may cartoon as nearly the most uncommercial possible condition. The other tradition was mainly typified in this country by a sequence of great judges in the commercial field who had their ear to the heart of the thing itself, and whose work was shaped in neglected beauty to the effective accomplishment of clean running work that served good faith and gave only a slippery hold to technicality or trickery, work that was simple along the lines of the



The 1952-53 Moot-Court Team (left to right): George Beall, Dallas, Texas, third-year student; Paul N. Wenger, West Hartford, Connecticut, second-year student; and Jean Allard, Trenton, Missouri, third-year student.

stuff itself and which was therefore also easy to grasp and sure to guide. It was the first tradition (there were names and gathered work to urge: Story in Agency; Benjamin in Sales) and not the second that was embraced by Daddy Mechem, and with amazing power. Indeed most of my professional life has been occupied in a slow struggle with the effects of that tradition, attempting to give voice to the other stream that had come to be covered over, although still running as clean and sure as an underground river if you could only reach it and tap it.

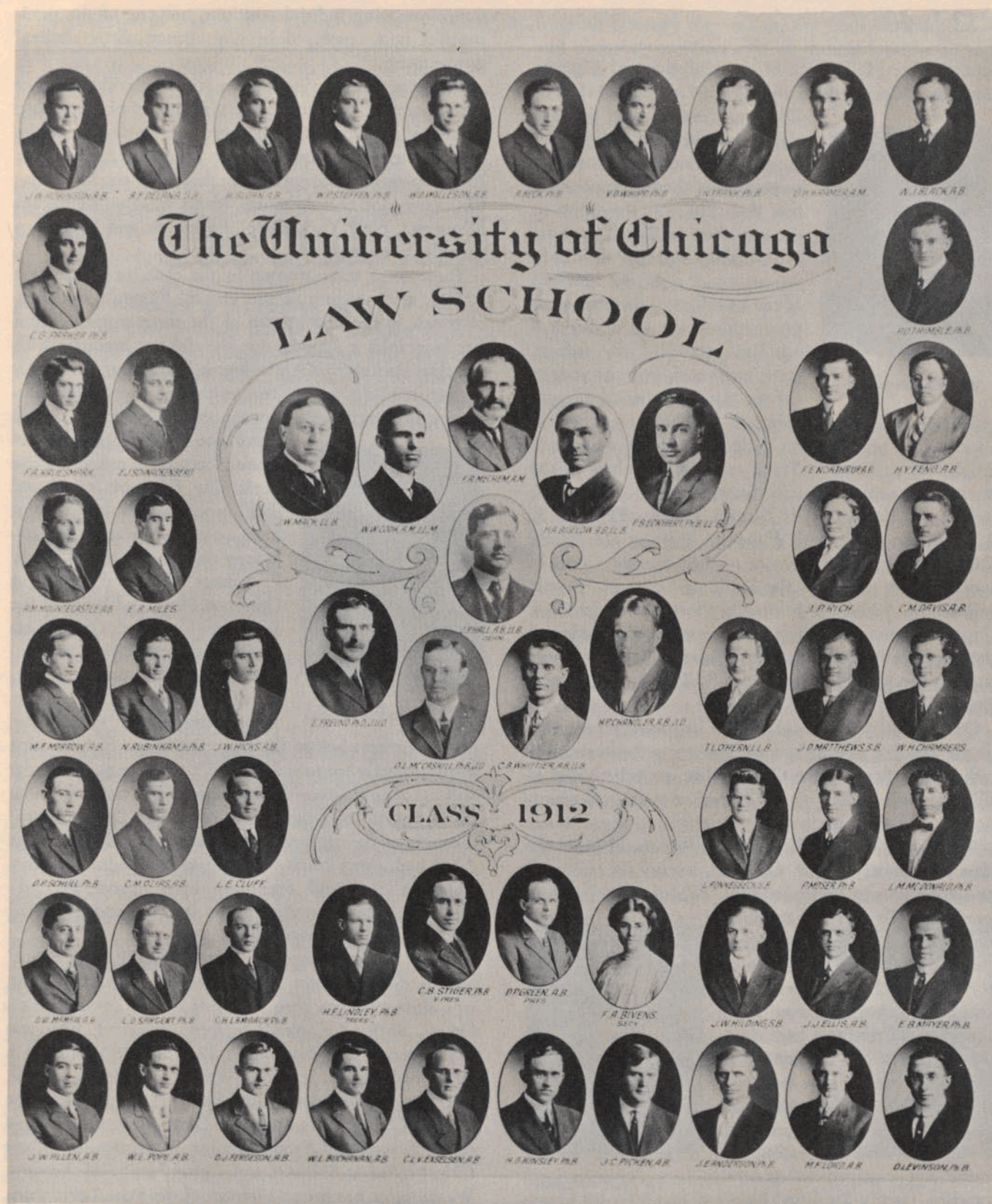
On the other hand, another man from the old days, with whom I had much more direct contact, Ernst Freund: in his line too I work. There I can state that it was he who was the creator of the modern study of statutory drafting in this country as a communicable art, and as a vital part of our law, for our study: his creation was not merely Administrative law, but the modern art of statutory drafting as well.¹ I can also state

¹ Dead or almost dead traditions of craftsmanship have to be re-created. There was in Freund's day no working communication of the Bentham-Livingston-Field sequence, in regard to either why or what or how of legislation or even the need for bringing any of the results into a law curriculum as "subject-matter." His was the major impetus of movement in each of those directions.

that there is not one thing that I saw in his work or learned from it that I am not putting into daily use; that he goes before me, though long dead, as a living inspiration. What I bring to you in that connection is the knowledge that when Ernst Freund first looked at me, he saw little Rollo; and he treated me just that way. And he explained to me, so patiently, how much I was going to have to learn of technique, and of patience, above all of patience. And for the last thirty years I have been drawing on those lessons, and living, my way, the life that he taught me to enter upon as a craftsman who believes in his ideals, even though it does take him thirty years to get anywhere, and who will continue to believe in his ideals, even though he be thrown out at the end of thirty years, but who in the interim is going to get his nose down onto the grindstone and learn how to make sharp tools, how to deal with human factors which are in his way, how, slowly, to overcome the infinite quantity of inertia and even of dirt that's there ahead of him, and so get an inch, or a foot, or, by the grace of God, a mile, closer to where the job ought to be taken by a lawyer—because a lawyer is a man of measures, a man of getting things done with the wherewithal at hand, in spite of the difficulties at hand, in unceasing service of the vision that goes beyond what is at hand.

Now, when you turn to the slow grubbing into the technical phases (and there are plenty of them), the particular body of law that you happen to be a part of is probably the most complex body of law ever known to man. I think that is a mild and restrained statement because I put a "probably" in it. As a matter of fact it is without question the most complex body of law ever known to man; and a body of that kind is bound to be shot through with technicality some of which seems extremely silly. When you come across some piece of law which seems to you thus silly, remember first Miss Mentschikoff's proposition that there is always a kernel of horse-sense in it somewhere. Remember another thing, and that is, that some silliness is the price of certain types of advance. There are parts of the silliness of law which we must, indeed, seek to reform at once, to the best of our ability. But there are parts which reflect and are a price of some of law's major achievements. I think, for example, of what I conceive to be a curiously silly piece of law, the piece of law which we are going to study in this course as our first piece of law—the rules which completely disregard the modern market, and set up when a good faith man buys goods in the open, fair, clear market, a rule subjecting him to the risk that the goods may be taken away from him; a rule which goes back in essence and in purpose, in emotion as well as in actual genesis, to the happy days of the feudal raid, or before then; a set of ideas which take their origin in the picture of a man's few possessions, his two cows and the one silver cup which he inherited from his great-great-great-great-grandfather, and allow him to

(Continued on page 20)



The Class of 1912 celebrated its fortieth birthday in June. In this 50th anniversary year of The University of Chicago Law School we are happy to honor the men and women of 1912 who have brought distinction to themselves and their School. On the following pages are reminiscences of '12 written by David Levinson, prominent member of the Chicago Bar, and senior partner of Sonnenschein Berkson Lautmann Levinson & Morse.

'12 Is 40

James Parker Hall, Dean of the University of Chicago Law School during the tenure of the Law School class of



David Levinson

1912, on every occasion that the class might be expected to hear the announcement, or a smoking-room version thereof, announced that this class was the worst in the very short history of the Law School. The Dean may have been wrong, but, if right, the activities of the members of the class since graduation evidences a very low scholastic standard for federal, state, territorial, and city judges. Of the class, numbering fifty-six graduates, and several designated by the Law School as *x*'s, nine are, or have been, judges of federal, state, territorial, and city courts. Three are now members of the recently re-named United States Courts of Appeal; Jerome N. Frank in the Second Circuit, Florence E. Allen in the Sixth, and Walter L. Pope in the Ninth. Carl B. Stiger was a member of the Supreme Court of Iowa for one term. On the Supreme Court of Hawaii, Ingram M. Stainback is now an incumbent. In Cook County, Walter P. Steffen, now deceased, was Judge of the Superior Court; currently, Elmer J. Schnackenberg sits as a Circuit Judge,¹ and Jesse R. Rich is city judge of Logan, Utah.

Other members of the class have had some recognition in the practice of the law. A number are members of rather large firms in the City of Chicago, other cities in Illinois, and in other states. Others are successful practitioners in various parts of the country.

There were one hundred and sixty-six members of the class in October of 1909. Of these, seventy-six registered as second-year students in 1910. Fifty-six are listed as graduates. To this last number, one should be added inasmuch as he took his degree in 1917 as of the class of 1912. At least five transferred to the class of 1911; others transferred to a later class. At least four are designated as *x*'s. Twelve of the class had died prior to 1952. Of the forty-five living members, of whom ten would not have any rating because not engaged in general practice, twenty are listed "a v" by Martindale, one is listed "b v" and one "c v." Of these forty-five, the 1952-53 *Who's Who* lists nine. Except



John N. Freeman

¹ Superior and Circuit courts of Cook County are courts of record. This footnote is unnecessary. While the desire to set a good example is particularly strong, the author's realization of the Editor's embarrassment if there were none has frustrated that desire.

those occupying judicial positions, not one of the graduates is now employed by any agency of the federal government.

The geographical distribution is rather wide. Making an assumption that the present addresses of the living members, as far as known, were the residences at the time of their entry into the Law School, it appears that Illinois furnished sixteen of the class, Iowa six, Utah five, China two, and that Arkansas, Idaho, Indiana, Kentucky, Minnesota, New York, Ohio, Tennessee, and Wisconsin furnished one each.

There were three women in the class, of whom two at least are members of the D.A.R. Florence E. Allen, of course, is the best known of the three women. From her biography it appears that she did not graduate with the class but received a law degree from New York University in 1913 after but two years' residence at the University of Chicago. It also appears that she was music



Judge F. E. Allen

editor for the *Cleveland Plain Dealer*, lecturer on music in New York City for some time, and then proceeded to her present high position through the following phases: Assistant County Prosecutor, Judge of Court of Common Pleas, and Judge of the Supreme Court of Ohio. This biographical material is very interesting to the author of this article because some years ago, having argued for the allotted fifteen minutes before the Supreme Court of Ohio that a will properly construed devised a contingent remainder and not an executory devise, he was not astounded that the six men on the bench presented "poker faces" throughout the argument but was surprised that Judge Allen had a very blank look. When it was disclosed that Judge Allen could not have taken Ernst Freund's course in future interests given in 1911 and 1912, the mystery, of course, was solved.

There are a number of other *x*'s as the Law School records disclose: John H. Freeman of Houston, Texas, who since 1929 has been president of the Texas Medical Center, Shrine Crippled Children's Hospital, who was city attorney for Houston in 1928 and 1929, and is a director of a bank; Irwin N. Walker of Chicago, Illinois, who was vice-president of the Board of Education of the City of Chicago, has authored *Facts about the Chicago Public Schools* and *Facts about the Superintendent of the Chicago Public Schools*; and Cyrus Happy of Tacoma, Washington, has been a member of the State Legislature, a member and president of the State School Board, president of the Tacoma Bar Association and district governor of the Washington State Bar Association.

Research discloses that at least five members of the class escaped the mass indictment of the Dean by transfer to the class of 1911. The directory used in this research

is the 1949 edition. Among the members of the 1911 class is Harry B. Hershey, now a Justice of the Supreme Court of Illinois. It was impossible not to glance at the list of members of the class of 1910, which appeared on the same page of the directory, from which it appears that George Rossman is a member of that class. He is now Chief Justice of the Supreme Court of Oregon. The fact that a member of the class of 1911 is a Justice of the Supreme Court of Illinois recalled a vagrant statement that Walter V. Schaefer, also a Justice of the Supreme Court of Illinois, had attended the University of Chicago Law School and on examination this proved to be correct. He is a member of the class of 1928.

This is no effort to gain stature for the class of 1912 by association any more than guilt by association (a much more common practice) would be confessed because the two Chinese who were members of the class of 1912 are probably now with Chiang Kai-shek or Mao Tse-tung.

At the graduation of this class, hoods were draped over the shoulders of those receiving the J.D. degree. Unconfirmed information is to the effect that the Association of Doctors of Philosophy was successful in having this practice discontinued and for some years past the J.D. degree has been conferred without offense to the learned Ph.D.'s.



Judge Jerome Frank

The most prolific author of the class is Judge Jerome N. Frank, already mentioned. In addition to a long list of articles in law reviews and national magazines, such as *Life* and the *Saturday Evening Post*, he has written *Law and the Modern Mind*, *Save America First*, *If Men Were Angels*, *Fate and Freedom*, and *Courts on Trial*. From sources considered unprejudiced, that is, lawyers who have neither won nor lost cases in which the opinions were written by Judge Frank, his opinions evidence an unusually large vocabulary with little evidence of penuriousness in the use of it. This author expresses no opinion either in agreement or disagreement with these sources but has no hesitancy in reporting that there seems to be a large number of footnotes in every opinion and this applies also to the books written by Judge Frank.

Some have preferred, at least for a time, business or political careers. Cola G. Parker is president of Kimberly-Clark Corporation; Paul Moser operates, very successfully a stenographic and secretarial school; Carl H. Lambach, according to the newspapers of Davenport, Iowa, was credited, or charged, with being the boss of the Republican party in that city.

The famous story of "say it in your own words" attributed to members of many other classes actually took place, and the Chinese student who answered in his language was named either Chow or Feng, and the author may perhaps be excused for his failure to dis-

tinguish between the two on the basis of the very old and probably incorrect rule of thumb familiar to most of the readers of this article.

The Dean may have been wrong but a consensus of opinion that is now forty years old was that he was a very astute person. Evidence of this comes from his choice of the members of the faculty, marred only, perhaps, by one error. In October of 1910 the faculty consisted of Floyd R. Mechem, Ernst Freund, James Parker Hall, Harry A. Bigelow, Julian Mack, and Clarke Butler Whittier. During the three years of attendance of this class, Roscoe Pound joined the faculty for, perhaps, one year; Walter Wheeler Cook for a number of years and Wesley N. Hohfeld for one year. It can now be disclosed that Hohfeld, with his passion for novel nomenclature, was not well regarded by the students. His innovations may, perhaps, have been perpetuated in the *Law Review* articles, but, as far as casual research discloses, no opinion of any court has used it. Roscoe Pound, of course, became Dean of Harvard Law School and Walter Wheeler Cook became identified with a modern school of law at Johns Hopkins. Judge Mack, who, it was firmly believed, in the classroom used his Harvard Law School notes exclusively, was transferred from Chicago, where he had been sitting in the Federal Court, to Cincinnati or, perhaps, New York. His resignation caused quite a stir. The Dean took over his course in Bills and Notes, and the grades for that course brought the average of the class down so low that it was commonly understood that that was the basis for the Dean's appraisal of the class. The Dean's courses were non-common law courses (except for torts), and it was charged, with perhaps justification, that the failure of the class in the Bills and Notes course was the Dean's failure in the more rigid discipline of the common law.

However, one should say that the relationship between the members of the class and the faculty was quite different than that which it is rumored is prevalent in the modern law schools. There was the utmost confidence in the faculty, except perhaps in the case of Mr. Hohfeld, but the I.Q. of the class may account for this. Mechem, Freund, and Bigelow were the major recipients of real affection.

One cannot, of course, fail to take advantage of the opportunity that a semicaptive audience affords, and therefore a few observations will be made on the differ-



Cola G. Parker



Judge Walter L. Pope

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The Legal Writing Program in the Law School

By HARRY KALVEN, JR.

The legal writing program, as presently constituted, is a five-quarter sequence running all through the first year and through the Winter and Spring quarters of the second year. It carries five credit hours in the first year and four credit hours in the second year; it represents in curriculum ratios a unit of work roughly comparable to Torts in the first year and to Trusts or Equity or Administrative Law in the second year.

The first-year sequence has centered on legal analysis, research, and exposition; the second year has moved on to counseling and drafting in the context of commercial transactions.

The second-year work, which is under the supervision of Professor Roscoe Steffen, will be described in detail in a subsequent issue of *The Law School Record*. I shall therefore limit my comment chiefly to the first year and to the teaching fellowship program through which the work in both years is staffed.



Harry Kalven

I

It comes as a mild but pleasant shock to me to realize that the legal writing program is now in its fifteenth year at The Law School. The program which began as an avowed experiment has now become part of the orthodox. It has been widely copied at other schools, and perhaps the surest sign that it has been basically successful is found in the fact that neither we nor the student body any longer regard it as a novelty.

The program has been based on the simple conviction that an important way to teach the future lawyer is to provide him with an intensive opportunity to write about law under the supervision and stimulus of an interested and critical reader. This year we contemplate that each first-year student will do some ten assignments calling for the writing of approximately 17,500 words and the expenditure of approximately 200 work hours. Each assignment will receive the benefit of detailed written and oral criticism from the staff of teaching fellows. That in a paragraph is the program. I should like to elaborate, first, on the needs it is designed to fill; next, on the teaching fellowships; and, finally, on the content of the particular assignments.

The program has arisen as one response to a series of frequently voiced observations about legal education. It is universally agreed that, whatever else a lawyer is to be, he must be a man trained in the use of language, an

expert at the job of presenting complex materials in concise, clear, effective fashion; yet for many years the only writing experience the average law student was likely to receive was in writing examinations. Again it is widely agreed that a lawyer must be self-reliant and able to work alone; yet law schools, unlike other disciplines at a comparable educational level, have relied almost exclusively on the large formal daily class. One way of making both these points has been the long noted half-truth that the best education in the law schools comes from membership in the law reviews, which are student-run, rather than from the rest of the school, which is faculty-run. It remains a reasonably accurate shorthand statement of the objectives of the legal writing program to say that it is intended to give to all the students at least some of the flavor, stimulus, and training that law reviews have given traditionally to the fortunate few.

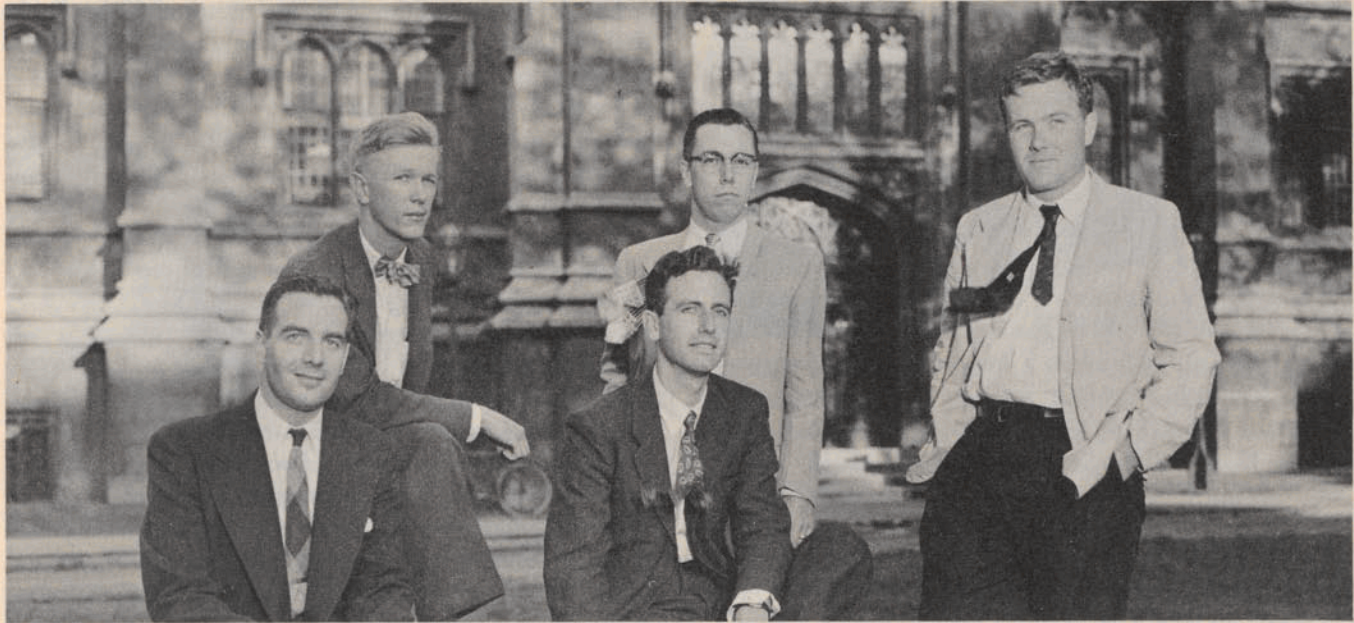
It has also been observed with increased frequency that law schools need a more efficient method of introducing and orienting the beginner to the serious study of law. During his first year at least, he needs some complement to the fast-moving case-method dialectic of the large class; he needs some test of his competence in addition to examinations; he needs some opportunity for individualized instruction and attention. The first year of the legal writing program thus shares with Professor Karl Llewellyn's important course in *Elements* the job of making the transition from layman to law student.

Beyond these major considerations the program also provides some needed correctives to the case method. It makes the student conscious of the limitations the precedent pattern in any one jurisdiction actually imposes, if your case happens to be in that jurisdiction. It points up the surprising degree to which casebooks, despite their detail, are really survey courses and enables the student to get some sense of how much law there may be behind the single case in the book. Finally, the work gives the student some sense of the value of time to the lawyer, some sense of the depth to which one can advance on a given problem, and some test of whether he has the necessary appetite for the inevitable detail and uncertainty of law work.

II

The single most important fact about the legal writing program, to my mind, is that it has its own staff. As a result it can be run as an independent course and not as an adjunct to other courses in which some paper work might from time to time be required. And as a result it is possible to realize our commitment that each piece of student writing will receive painstaking criticism on an individual basis. We have found that once the student appreciates that his paper will be carefully read and fully discussed with him—once, that is, he realizes he is writing for a live audience—the battle is more than half won.

The present staff consists of Professor Steffen and myself and five Harry A. Bigelow Teaching Fellows. The



The 1952-53 Bigelow Fellows (left to right): Melvin Shimm of New York, A.B. Columbia, LL.B. Yale; Jo Desha Lucas, Richmond, Virginia, LL.B. Virginia, LL.M. Columbia; John Edwards, Oxford University; Douglas H. Parker, Salt Lake City, A.B., LL.B. University of Utah; Jan Krasnowiecki, Oxford University.

fellowships carry a stipend of \$3,600 and are awarded annually to law graduates of high scholastic achievement. The program depends in the end on the caliber of the staff, and we have been very pleased thus far with our good fortune in recruitment. Since the start of the program there have been some thirty-eight fellowship appointments. Eight of these have been our own University of Chicago graduates, but the remainder have come from a wide range of schools, including Harvard, Yale, Columbia, Virginia, Pennsylvania, Northwestern, Cornell, California, Iowa, Indiana, and Utah. A special feature has been the use of English-trained law graduates from Oxford, the London School of Economics, and just last year the University of Melbourne. This experiment has proved highly successful from every viewpoint, and we are delighted this year to have two Oxford men on the staff.

The Fellowship itself has become a unique form of graduate law training. The Fellows are full-time appointees and are members of the faculty for the year. The emphasis is on teaching rather than on graduate research, and thus the writing program as a whole has the additional objective of teacher-training. Approximately one-quarter of the Fellows have gone on into teaching, but the year has proved a rich and useful experience as well for those who have moved into practice or government work.

The Fellows participate fully in the planning of the work for the year and have the primary responsibility for guiding the students through it. The Fellows thus have the opportunity of sustained informal contact with the faculty, of working together over the year as a team, and the excellent opportunity to examine the process of

legal education intensively in their own interactions with their students.

This year, in addition to the heavy work load of the two writing programs, the Fellows are collaborating with Professor Sheldon Tefft in two seminars and are sharing in the responsibilities of the new Graduate Seminar. This accounts for approximately 110 per cent of their time; the rest of their time, we tell them, they are free to use as they see fit.

III

The program this year can be divided rather conveniently by the three academic quarters. During the Autumn Quarter the emphasis is on analysis and exposition of prepared materials, and there are no research responsibilities. During the Winter Quarter the emphasis shifts to research. And, finally, in the Spring Quarter, the emphasis shifts to advocacy, and the student is asked to apply his skills of analysis, research, and exposition to the advocate's task of making the best case he decently can for his side of the controversy. Each student by the end of the first year will have written several memoranda, an appellate brief, and a judicial opinion, drafted a statute, and made two oral arguments. Each unit of student work will receive detailed criticism in writing and in personal interview with a teaching Fellow.

I have said that the course proceeds on the conviction that a significant way to teach law is to give the student an intensive experience in writing about law for a critical reader. So long as that is done I am inclined to think that a considerable variety of particular assignments might work equally well. I shall outline this year's proj-

(Continued on page 18)



At the speaker's table at the luncheon session are (left to right): Alex Elson '28, Judge Joseph J. Drucker, Professor Allison Dunham, Chairman, Mrs. Edwin Eisendrath, Senator Walker Butler, and Jerome S. Weiss '30.

Youth, the Law, and the Courts

The first of the series of Fiftieth Anniversary conferences sponsored by the Law School this year was held on September 26 on the subject "Youth, the Law, and the Courts." Allison Dunham of the Law School faculty was chairman of the conference committee. Co-operating with the Law School on the committee was the Illinois Commission on Children and Youth represented by Mr. Alex Elson, '28, Mrs. John T. Even, Mrs. Walter T. Fisher, Mrs. Thomas H. Ludlow, and The Reverend David W. Witte. The Chicago Bar Association which was the third organization on the co-operative committee was represented by Jerome S. Weiss, '30, who is chairman of the Association's Committee on Juvenile Delinquency and Adolescent Offenders.

In its conference statement the committee pointed out that it was considering no new problems. Questions relating to youthful offenders and the courts in Illinois have been considered unilaterally by many organizations at many times and places. Constructive programs often have been thwarted or hindered because the areas of agreement among interested groups and individuals have not been clearly formulated for legislative consideration. The conference sponsored by the Law School in co-operation with the Commission and the Bar Association was planned in the hope that a positive program of recommendations for administrative and legislative action would result. The proceedings of the conference are being printed and will be available for distribution shortly.

The morning session on "Youth and the Present Law of Illinois" was chaired by Mr. Elson. Mr. Sherwood Norman, consultant on detention of the National Probation and Parole Association, spoke on "Existing Provisions for Handling, Detention, and Treatment of Youthful Offenders before Conviction." Mr. Jerome Weiss's paper considered the subject: "Existing Law, Courts, and Institutions for Convicting, Sentencing, and Correcting Youthful Offenders."

The commentators for the morning session were Judge

Joseph J. Drucker of the Municipal Court and Mrs. Zenia Sachs Goodman, formerly a member of the office of the State's Attorney of Cook County.

Professor Allison Dunham chaired the luncheon session at which the principal speaker was Senator Walker Butler, chairman of the Illinois Legislative Commission on Youth. Senator Butler spoke on "Does Illinois Need a Change in Its Law for Youthful Offenders?"

The afternoon session was broken up into five workshops each considering some aspect of the problems related to youthful offenders. The workshop questions and chairmen were: *What should be done about conflict of jurisdiction among courts handling youthful offenders?* Lawrence Dimsdale, Regional Attorney, Chicago, Federal Security Administration; *How should the sentencing function be related to the treatment function?* Frank T. Flynn, Jr., Associate Professor of Social Service Administration, University of Chicago; *The relation of the probation process to treatment for youthful offenders,* Ben S. Meeker, Chief Probation Officer, United States District Court for Northern District of Illinois; *What legislative or administrative standards are needed with respect to diagnosis?* George J. Mohr, M.D., Chicago; *What additional facilities should be developed for prevention and treatment of youthful offenders, and what legislation is needed?* Jessie F. Binford, Executive Director, The Juvenile Protective Association of Chicago.

The conference participants met again in the afternoon for reports from the workshop chairmen and for summary discussions.

Andrew J. Dallstream, '17, President of the Chicago Bar Association, presided at the evening session and introduced Judge Thomas E. Kluczynski of the Juvenile Court. The principal speaker at the concluding session was Newspaperman Albert Deutsch, who presented "A Program for Youth in the Courts."

The Return of Professor Jewkes

The Law School is very happy to announce that during the academic year 1953-54 John Jewkes will come to Chicago as Visiting Professor of Industrial Organization. Mr. Jewkes is Fellow of Merton College and Professor of Economic Organization in Oxford University. He is ranked among the outstanding English economists and is considered one of the leading classical economists in the world today.

Alumni will recall that Professor Jewkes visited The Law School last year and participated in the three-day Conference on the Economics of Mobilization which was held by the School at the Greenbrier at White Sulphur Springs.

For a number of years before the war, Mr. Jewkes was Professor of Social Economics in the University of Manchester. He held prominent positions in the Churchill government during the war years. He was Director of the Economic Section, War Cabinet Secretariat; Director

General of Statistics and Programs, Ministry of Air Craft Production; and Principal Assistant Secretary, Office of the Minister of Reconstruction.



John Jewkes

Professor Jewkes is well known in the United States for his work on problems of the labor market in England, his book, *Ordeal by Planning* and several recent articles in *Fortune*. He first came to this country in 1929-30 as a Rockefeller Fellow.

At The Law School next year he will offer a course on Industrial Organization with special emphasis on the factors which give rise to large-scale units and the resulting influence on competition. Consideration will be given to the problem of public regulation of forces of monopoly industries and of nationalized industries in England. In addition to a series of public lectures, Mr. Jewkes will also give a seminar on Patent Law, a discussion of the theory of patents and industrial progress, the relation of patents to monopoly in general and proposals for change of the patent system.



The fifteen Referendars from Germany on the steps of The Law School with Max Rheinstein, Max Pam Professor of Comparative Law. This group of graduate law students, who are spending a year in Chicago under a program sponsored by the Department of State, represent the universities of Göttingen, Bonn, Heidelberg, Tübingen, Berlin, Mainz, Gutenberg, Hamburg, Freiburg, Frankfurt, Marburg, and Münster and the Free University of Berlin. During the present academic year at The Law School the students will each take one or two regular undergraduate law courses and a series of special seminars, "Problems of American Law for Foreign Students." In addition, some of the students have elected to carry a course in the University, and the remainder of their time is filled with practicing English, becoming acquainted with American institutions, visiting courts and law offices, and joining in the social activities of the Beecher Hall Law School Residence and the women's dormitory where they reside.

Geographic Distribution

Students in the Law School continue to come from all over the country and from many universities and colleges. Thirty-four states, four territorial possessions, and six foreign countries are represented, as are sixty-five universities and colleges. Slightly less than one-third of the students come from the city of Chicago, and about 45 per cent from the state of Illinois. New York has the largest group outside of Illinois. Ohio, Indiana, Connecticut, Wisconsin, Pennsylvania, New Jersey, Michigan, California, and Minnesota come next in that order. Other states represented are Alabama, Arkansas, Delaware, Florida, Georgia, Idaho, Iowa, Kansas, Kentucky, Maine, Missouri, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, and West Virginia. Outside of the University of Chicago, the University of Illinois, Carleton College, Northwestern, and Yale have the largest representation. The full list of colleges and universities is as follows:

Amherst	Princeton
Antioch	Reed
Beloit	Roosevelt
Brooklyn	Simpson
Brown	Southeast State College of
Bethany	Oklahoma
Carleton	Swarthmore
City College of New York	Syracuse
Dakota Wesleyan	Talladega
Deep Springs	Trinity
De Paul	United States Military Acad-
De Pauw	emy
Dartmouth	University of California
Grinnell	University of Chicago
Harvard	University of Dubuque
Hobart	University of Illinois
Hamilton	University of Maine
Hiram	University of North Dakota
Illinois Wesleyan	University of Missouri
Indiana State Teachers Col-	University of Pittsburgh
lege	University of Puerto Rico
Knox	University of Texas
Lawrence	University of Utah
Loyola	University of Virginia
Marshall	University of Washington
Maryville	University of Wisconsin
Millikin	Wabash
Morgan Park Jr. College	Washington University
Notre Dame	Wesleyan University
Northwestern	Western Reserve University
Oberlin	Wayne University
Olivet	Whitman
Providence	Willamette
Purdue	Yale



The 1952-53 Law Review Editorial Board (seated, left to right): Lawrence Reich, Jersey City, New Jersey; Dale Broeder, Portland, Oregon; Marvin Chirelstein, Chicago; Alexander Polikoff, Editor-in-Chief, Chicago; (standing, left to right): Howard MacLeod, Amherst, Massachusetts; Richard Stillerman, Chicago; Robert Bork, Pittsburgh, Pennsylvania; Merrill Freed, Springfield, Ohio; and Jean Allard, Trenton, Missouri.

Twenty Years at Hard Labor

Like any institution, the *Law Review* is both a society unto itself and a reflection of its societal environment. As regards the former, Professor Riesman (in *Some Observations on Law and Psychology*, 19 Univ. Chi. L. Rev. 30 [1951]) judges the law reviews to be the most striking instance in the professional world of a democracy "based on ability to *do* something . . .," though the law-review society is admittedly a very select one. As for the latter, the pages of any "national" review mirror the educational and social philosophy of its law school and, to a lesser extent, of the whole society.

This combination of a cliquish though internally democratic society, brashly and somewhat high-handedly manufacturing a "significant" issue (perhaps not without stepping on some professorial toes in rewriting submitted articles), is the educational strength of a review, producing a kind of inbreeding of high standards which a less select group or a less pretentious objective might preclude. And because the law-review market so clearly abounds in superfluous literature, the justification for any review must lie in the training it affords to those working on it. This training, in the effective use of written words, the law review gives by painstaking rewrit-

ing of all student work to meet its own high standards.

At Chicago, the top men in the first-year class are elected by the editors, solely on the basis of grades, to be staff members for the ensuing year. Subsequent election to the editorial board is not, however, dependent on grades but upon the production of material which meets the *Review's* standards for publication. Once a topic and a rewrite man are assigned, the staff member begins the process of research and drafting, discussions with the rewrite man which change or refine his notions, redrafting, reworking the arguments again with the rewrite man, consultation with the faculty specialist in the subject of the prospective note, and, finally, perhaps two academic quarters and many quarts of coffee later, approval of a finished draft by the rewrite man and by the student work editors. Then the staff member immediately begins work anew, for he must have completed a good draft on a second topic to qualify for election to an editorial position. If the rewrite man has done his work well, this second topic will begin at about the fourth-draft stage of the first. From the long hours spent with the rewrite man and from the interplay of discussion of substance and reworking of language, the staff member will have learned something about writing on legal topics.

At the end of the second year the outgoing editorial

board elects its own successors. As Professor Riesman has noted, the criterion is the quality and amount of work produced; the mores of the law-review society require that all other factors be ruthlessly discarded.

The third-year editor, hardly concealing his feeling of importance, undertakes a multitude of tasks. He is rewrite man to several staff members, he plans issues and solicits articles and book reviews, he carefully peruses and sometimes reworks submitted manuscripts, upon occasion he sweats out a rejection letter for a solicited article by a well-known writer who relied on his reputation and failed to meet review standards, he confers with faculty men and reads scores of cases to collect topics for student work, he prepares manuscripts for publication, supervises footnote checking for accuracy, meets press deadlines—and terribly neglects his own classes. At the end of a year he feels that he has helped to turn out as good a volume as his review has ever published and, having by dint of last-minute cramming miraculously passed his courses with better grades than he received in the first two years, he leaves his school and the review with an exaggerated notion of his own ability. But the two years of writing and rewriting have taught him something which no class could about the nimbleness of the written word.

To place this fairly typical law-review society in its proper setting at the University of Chicago, one must go back to the spring of 1933. Ernst Freund had just died, and the first issue was dedicated to his memory. There was as yet no New Deal legislation to discuss, and Volume One, Number One, was conservatively lawyer-like in its choice of subjects for major articles: Conflict of Laws, Trusts, Illinois' new Civil Practice Act and the Federal Tort Claims Bill. Dean Bigelow announced in his note on the establishment of the *Review* that "the responsibility of the *Review* and the credit for it will belong to the students of the Law School." But the first issue prudently noted beneath its masthead: "The Board of Editors does not assume collective responsibility for any statement in the columns of the *Review*." The caveat was dropped with Volume Two, Number Three, under the editorship of third-year student Edward H. Levi, one of several *Review* members destined to move on to the faculty. (Others are Professors W. Robert Ming, Jr., Bernard Meltzer, Harry Kalven, Jr., and Walter Blum.) William Allen Quinlan was the first editor-in-chief, Professor E. W. Puttkammer was and still is the faculty adviser, and among the contributors to Volume One were Malcolm Sharp (visiting professor at Chicago), William O. Douglas (professor at Yale), and Walter V. Schaefer (member of the Chicago Bar). Among the editors in the early years were William R. Forrester, now Dean of the Law School, Tulane University; James W. Moore, now Professor of Law at Yale; and Arno C. Becht, now Professor of Law at Washington University. A later issue of the *Record* will record the progress of former editors to positions of responsibility and impor-

tance at the Bar, in government, and in law teaching. Another contributor to Volume One was Robert M. Hutchins who argued, in his *Autobiography of an Ex-Law Student* (and in *Legal Education* in Volume Four), for the establishment of departments of jurisprudence for the study of legal principles.

The first nine years were good years for the *Review*. New Deal legislation, especially the Wagner Act, was thoroughly canvassed. Professor Paul H. Douglas discussed the theory of wage regulation, and Sidney Hook and Thurman Arnold engaged in a running debate on Arnold's *The Folklore of Capitalism*. But the more traditional legal topics were not neglected. Former editors-in-chief James W. Moore and Edward H. Levi surveyed the law of bankruptcy and reorganization in a huge, three-part article. And the *Review* printed, among others, Prosser on insurance, Holdsworth on legal history, Maguire on evidence, Stumberg on conflict of laws, and K. N. Llewellyn *On the Good, the True, the Beautiful, in Law*. The faculty contributed generously. To note but a single illustration, Professor Sharp's *Promissory Liability*, which has been the guidebook to contracts for thirteen years of first-year students, was published in Volume Seven. In Volumes Eight and Eleven appeared two articles by Henry Simons which signified the increasing integration of law and economics in the Law School. Volume Three, Number Two, marked the death of Edward Hinton, James P. Hall Professor, who died on January 2, 1936. The same issue announced the establishment of the Max Pam Professorship in Comparative Law, with the appointment of Assistant Professor Max Rheinstein as the first incumbent. And in April, 1940, Volume Seven, Number Three, was dedicated to "Harry Augustus Bigelow, Dean Emeritus and Professor of Law at the University of Chicago Law School, scholar, teacher, and friend of countless law students."

With Volume Ten the war years fell upon the *Review* as upon the nation. The first number, in October, 1942, was produced with a skeleton staff of two students, and in Volume Ten, Number Four, the faculty assumed editorship.

With Volume Eleven Professor Puttkammer continued as editor. Enrolment in the Law School totaled 47, including 15 women. Eleven regular faculty members were in residence. Without much student work, Volumes Ten through Thirteen averaged under five hundred pages.

With the end of the war, students came back to school, and the *Review* came back to the students. Volume Fourteen is, perhaps, the most famous of all the volumes. Number One was given over to Henry Simons and contained three articles about his work by Wilber Katz, John Davenport, and Aaron Director, and *Federal Tax Reform*, written before his death by Simons himself. Number Two contained Professor Levi's *The Antitrust Laws and Monopoly*, and Number Three was devoted

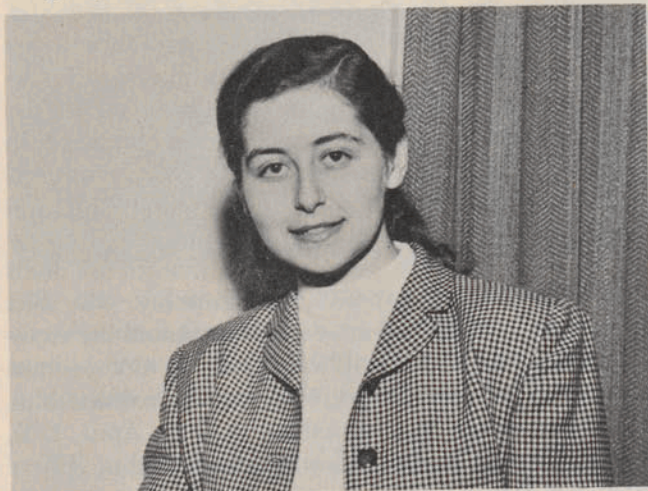
(Continued on page 19)

The National Scholarships

The national scholarship program of The University of Chicago Law School is now in its second year. With scholarships established in a number of the leading liberal arts colleges and universities of America, legal education at the University of Chicago is available to students who might otherwise not have been able to attend. The national scholars are nominated for the scholarships by their undergraduate schools in whose name the award is established.

Ever increasing geographic distribution and bringing first-rate students to Chicago continues to be of prime importance in the growth and development of The Law School.

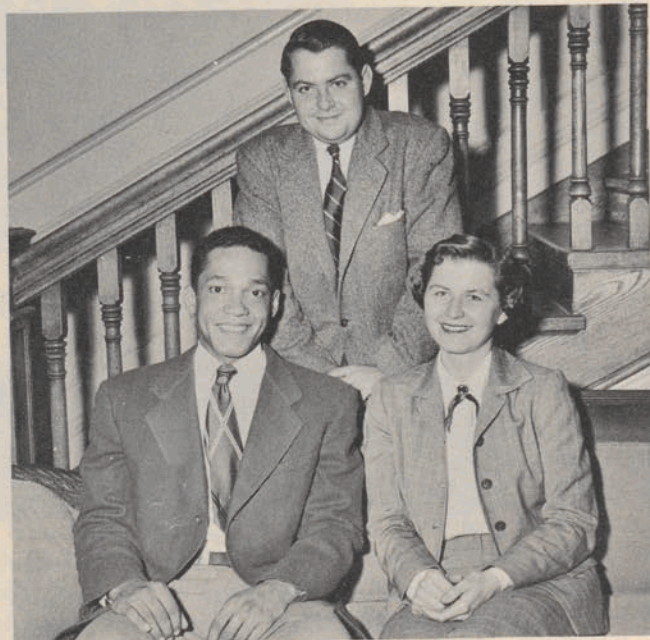
The national scholarship recipients at the School for the academic year 1952-53 are: Richard M. Adams, Mount Prospect, Illinois, Yale University; James R. Allison,



Miss Judith E. Weinshall of Haifa, Israel, a graduate of the University of California, a second-year student at The Law School, is the 1952-53 holder of the Class of 1915 Scholarship.

Salineville, Ohio, Maryville College; Charles T. Beeching, Jr., Herkimer, New York, Hamilton College; Gregory Beggs, Oak Park, Illinois, Yale University; Alan Brodie, Portland, Oregon, Reed College; Robert M. Brown, Hempstead, New York, Antioch College; William H. Brown, Huntington, West Virginia, Swarthmore College; M. Eugene Butler, Dayton, Washington, Whitman College; Arthur L. Content, Stamford, Connecticut, Hamilton College; Eva S. Content, Atlanta, Georgia, Oberlin College; Roger Conant Cramton, St. Johnsbury, Vermont, Harvard College; Vincent L. Diana, Manchester, Connecticut, Trinity College; Joseph N. DuCanto, Oneida, New York, Antioch College; Raymond W. Gee, Salt Lake City, University of Utah; Robert W. Hamilton, Arlington, Virginia, Swarthmore College; Lawrence Hochberg, Providence, Rhode Island, Brown University; William Jochem, Peoria, Illinois, Knox College; George B. Joseph, Boise, Idaho, Reed

College; James L. Kershaw, Columbus, Indiana, DePauw University; Louis R. Main, Chicago, Beloit College; Robert C. McDougal, Chicago, Oberlin College; Lewis V. Morgan, Wheaton, Illinois, DePauw University; Carleton F. Nadelhoffer, Downers Grove, Illinois, Carleton; Robert E. Nagle, Mt. Vernon, New York, Wesleyan University; Bernard J. Nussbaum, Kew Gardens, New York, Knox College; William J. Reinke, South Bend, Indiana, Wabash College; Marshall A. Susler, Decatur, Illinois, Millikan University; Alan S. Ward,



The Raymond Scholars (left to right): Eric E. Graham, Ancon, Panama; Lawrence Reich, Jersey City, New Jersey; and Jean Allard, Trenton, Missouri.



The James A. Blake Scholars (left to right): John I. Lundmark, Harvey, Illinois, and Robert B. Murdock, Pittsburgh, Pennsylvania.



A group of the national scholarship winners, dressed the part, lined up for their picture in the Beecher Hall lounge.

Wilmington, Delaware, Wesleyan University; Paul N. Wenger, West Hartford, Connecticut, Dartmouth.

In addition to the schools mentioned above, national scholarships will be awarded for the academic year 1953-54 to students graduating from Ohio Wesleyan University, Princeton University, Ripon College, Williams College, Denison University, Rice Institute, Colgate University,

Kenyon College, Bowdoin College, Grinnell College, Haverford College, Lawrence College, and Whitman College.

The Law School has also recently announced that beginning with the academic year 1953-54 two scholarships to be known as the Mary Beecher Scholarships will be awarded to graduates of selected women's colleges.



The Wormser Scholars: George Beall (left), Dallas, Texas, a third-year student, and Thomas Nicholson, Chicago, a first-year student. Mr. Beall took his A.B. at the University of Chicago, and Mr. Nicholson did his undergraduate work at Princeton University.



The Kosmerl Scholars (left to right): Merrill Freed, Springfield, Ohio, third-year student, and Harold A. Ward III, Winter Park, Florida, first-year student.

Alumni Meet at ABA Convention

The Palace Hotel in San Francisco was the scene of an exciting national alumni meeting of the University of Chicago Law School held on September 17, 1952, in conjunction with the 75th Annual Meeting of the American Bar Association.

The American Bar Association had just turned its first quarter-century when the Law School was founded. During the last fifty years the School has provided many of the most notable leaders of the Association, including former national president, George Maurice Morris '15.



Dean Edward H. Levi speaking to the alumni at their special meeting during the convention.

Alumni Association President Glen Lloyd '23, Dean Edward H. Levi, and Professors Karl N. Llewellyn, Allison Dunham, and Soia Mentschikoff addressed the alumni gathering which was arranged by a committee under the chairmanship of Marvin T. Tepperman '49. Next year Boston will be host to the ABA, and we

look forward to another large gathering of Chicago men and women.

The following alumni attended the Chicago luncheon: M. L. Bluhm '17, Chicago; Dorman T. Bennett '18, Willets, California; Dorothea K. Blender '32, Chicago; Frank S. Bevan '10, Atlanta, Illinois; Joseph W. Bingham '04, Palo Alto, California; McKnight Brunn '49, Oakland, California; John W. Broad '42, San Francisco; David C. Bogert '33, San Francisco; Paul E. Basye '26, Burlingame, California; M. J. Cullen '49, San Francisco; William C. Christianson '20, Red Wing, Minnesota; Stephen R. Curtis '16, Chicago; Andrew J. Dallstream '17, Chicago; Julius L. Eberle '13, Boise, Idaho; Paul E. Farrier '33, Chicago; Daniel Fogel '49, San Francisco; Scott Fleming '51, San Francisco; Earl Q. Gray '13, Ardmore, Oklahoma; Albert B. Houghton '09, Milwaukee; George Halcrow '40, San Mateo, California; Howard G. Hawkins '41, San Francisco; E. E. Hallows '30, Milwaukee; Harold P. Huls '21, San Francisco; Raymond W. Ickes '39, San Francisco; Robert L. James '47, San Francisco; Byron E. Kabot '41, San Francisco; H. Glenn Kinsley '12, Sheridan, Wyoming; Philip Lawrence '42, San Francisco; Julian Mack '49, San Francisco; George R. Maury '27, North Hollywood; Rollin B. Mansfield '27, Chicago; George M. Morris '15, Washington, D.C.; Hon. Walter L. Pope '12, San Francisco;



Soia Mentschikoff extended greetings to the Chicago alumni.

Walter A. Raymond '22, Kansas City, Missouri; George Rossman '10, Salem, Oregon; Adolph A. Rubinson '34, Chicago; D. A. Skeen '10, Salt Lake City; Allen Singer '48, San Francisco; John Skweir '25, McAdoo, Pennsylvania; James M. Spiro '42, Chicago; James R. Sharp '34, Washington, D.C.; W. E. Stanley '13, Wichita, Kansas; Marvin T. Tepperman '49, San Francisco; Lowell Wadmond '24, New York; Rowland L. Young '48, Chicago; Dudley A. Zinke '42, San Francisco.

Welcome nonalumni guests who attended the luncheon were Joe C. Barrett, chairman of the Executive Committee, National Conference of Commissioners on Uniform State Laws, and the Honorable Gus L. Solomon Ph.B. '26, Judge, United States District Court, Portland, Oregon.



Joe C. Barrett, Chairman of the Executive Committee, National Conference of Commissioners on Uniform State Laws, addressed the alumni luncheon at the ABA convention. At Mr. Barrett's right is George Maurice Morris '15.



At the speaker's table at the alumni luncheon were (left to right): Allison Dunham, Karl N. Llewellyn, Glen A. Lloyd '23, President of the Law School Alumni Association, and Marvin Tepperman '49.



The Summer Seminar on "The Police and Racial Tension" at The Law School. At the far left is Joseph D. Lohman, Chairman, Parole and Pardon Board, State of Illinois, and Lecturer in the Department of Sociology at the University of Chicago, who was director of the seminar.

The Police and Racial Tension

There were disputes and unanimous agreements, sharp words and calm deliberations, at the two-week-long seminar, "The Police and Racial Tensions," which was held at the Law School in July. We announced the program for participants in the Winter issue of the *Record*, and we are happy to be able to tell the alumni that this experimental program succeeded as far as we can measure the reactions of the participants and the registrants. The most provocative meetings were the two devoted to "Recent Developments in the Law Affecting Racial and Related Forms of Discrimination" and "The Role of the Police in Situations of Racial Tension."

After the summary session on "A Positive Program for the Police and the Community," the registrants returned to their own communities weary after two weeks of intensive work but with many new ideas and approaches to the serious problems of racial tension.

Following is a list of the police department representatives:

CAPT. CLIFFORD BAILEY, Minneapolis, Minnesota
 PATROLMAN JOSEPH BARLOGA, Cicero, Illinois
 SUPT. JAMES F. BROWN, Atlanta, Georgia
 CAPT. THOMAS CURLEY, Gary, Indiana
 LT. BARTHOLOMEW DANAHEY, Buffalo, New York
 CHIEF GEORGE F. DOWLING, East St. Louis, Illinois
 CAPT. WALTER A. EICHEN, Illinois State Police
 LT. HOWARD W. FIEDLER, Pittsburgh, Pennsylvania
 DET. LARRY FULTZ, Houston, Texas
 SGT. JAMES J. HAJEK, Berwyn, Illinois

PATROLMAN CAPERS HARPER, Detroit, Michigan
 PATROLMAN THOMAS KAZAKOS, Cicero, Illinois
 SGT. OLIVER KELLY, Newark, New Jersey
 CAPT. GERALD KOPP, Louisville, Kentucky
 PATROLMAN EUGENE KOVACS, River Rouge, Michigan
 SGT. IRVIN LAWLER, Detroit, Michigan
 DEPUTY-CHIEF THOMAS LYONS, Chicago, Illinois
 PATROLMAN D. C. McCANTS, River Rouge, Michigan
 MAJOR WILLIAM McNAMARA, New Orleans, Louisiana
 CAPT. NOEL A. McQUOWN, Los Angeles, California
 SGT. MILLARD MAROVINA, Gary, Indiana
 SGT. LOREN E. MEECE, Seattle, Washington
 DIR. EDWARD MEYERDING, American Civil Liberties Union
 LT. H. W. MORAN, Illinois State Highway Police
 SGT. BENJAMIN L. MORGAN, Chicago, Illinois
 LT. RAY H. MULLER, New Orleans, Louisiana
 LT. GEORGE L. MURPHY, Chicago, Illinois
 LT. FRANZISKA B. NAUGHTON, Park Forest, Illinois
 LT. JOHN J. NELLIGAN, Chicago, Illinois
 PATROLMAN JOHN O'CONNELL, Yonkers, New York
 CHIEF RALPH PHILLIPS, River Rouge, Michigan
 LT. WILLIAM F. PROETZ, St. Paul, Minnesota
 CAPT. GEORGE W. PURVIS, Pittsburgh, Pennsylvania
 CHIEF MARK H. RASPBERRY, Washington, D.C.
 CAPT. JOHN F. RYAN, Washington, D.C.
 CAPT. HENRY J. SANDMAN, Cincinnati, Ohio
 INSTRUCTOR OSCAR E. SHABAT, Chicago, Illinois
 CAPT. ELMER SOKOL, South Bend, Indiana
 DET. SILVER SUAREZ, Springfield, Illinois
 LT. ELMER TESKER, Chicago, Illinois
 SGT. T. DONALD WALLACE, St. Paul, Minnesota
 DEPUTY CHIEF JOHN J. WALSH, Chicago, Illinois
 LT. JOSEPH T. WIRTH, Washington, D. C.
 CAPT. LEWIS E. WYATT, Kansas City, Missouri

Legal Writing (Continued from page 9)

ects as illustrative only of how a series of assignments may be put together. We have varied the assignment pattern considerably over the last five years and will undoubtedly continue to experiment.

The first quarter's work utilizes a series of cases from a single jurisdiction dealing with a single problem. The cases are given to the student in mimeographed form, with a minimum of editing by us, and are arranged in chronological order. The student is then given a series of written assignments on this material. In years past we have utilized sequences of cases from the United States Supreme Court such as those on search and seizure, right to counsel, and the representative jury. These have the advantage of being immediately exciting in their civil liberties aspects, but the constitutional doctrines have sometimes proved a bit too difficult for the beginner. This year we have shifted to a somewhat more tranquil theme—the litigation in the Supreme Court of Washington under its host-guest statute enacted in 1933. There have been over twenty cases under the statute, and they afford an interesting and accessible set of materials for close study. The materials come to approximately 150 mimeographed pages or about one quarter, in quantity at least, of the average casebook. Four assignments on this material are being called for over the Autumn Quarter. First, the student was given the cases up to 1940 and asked to prepare a 2,500-word legal memorandum covering them and to speculate as to what was still open for litigation. Second, he was given the cases from 1940 to date and asked to rewrite his original memorandum in 3,000 words so as to incorporate the later material. Third, he is to be given a fact situation involving suit under the statute and asked to prepare a 1,500-word memorandum supporting one side of the controversy. Fourth, he is to be asked to redraft the Washington statute so as to avoid the difficulties the litigation has disclosed and to support his draft with a concise memorandum.

This has been deliberately made an armchair assignment. There are sufficient difficulties in the analysis and exposition of legal materials to make it unwise to bring in the research function too early. And, when research is added in the Winter Quarter, the student will have a clearer sense of the additional role it plays.

The work in the Winter Quarter begins with a limited research job on a point of law designed to keep to a minimum the analytic and expository difficulties and simply to insure that the student has become acquainted with all the relevant legal research tools. Last year for this purpose we had the class research whether there is a cause of action for prenatal injuries, a point on which there are perhaps two dozen cases in the United States, the majority of which are very recent. This is to be followed by a substantial research problem arising from a statement of facts and raising several issues, some of which are well settled and some of which are quite con-

troversial. The student is asked to consider the case in two or three jurisdictions picked to illustrate different precedent patterns and to submit a 3,000-word memorandum which is then rewritten completely after criticism. This assignment occupies the student for the remainder of the quarter.

The research problems are made up by the staff somewhat in the mysterious fashion that examination questions are created. For several years we have found it profitable to take some single area of law such as defamation, occupier liability, third-party beneficiary contracts, or misrepresentation, study it carefully together, and work out our problems from it. Making up the problems is always both fun and challenging; and it is surprisingly difficult to combine several good issues into a plausible fact story. The staff then researches the problem thoroughly before it is assigned. When the student work is finished near the end of one quarter, we then run a series of small seminar sessions on the substantive law area as a whole, thus giving each student some of the benefit of the work done by the others.

The Spring Quarter turns to advocacy and hence to brief writing and oral argument. It resembles the traditional appellate moot-court work. Each student prepares a written brief, makes a thirty- to forty-minute oral argument, sits as a judge in another case, and writes a judicial opinion on the basis of arguments presented. Emphasis is of course on the adjustments in analysis, research, and exposition that occur when one is committed to one side of a controversy as an advocate. There will be some observation of appellate trials, and Professor Llewellyn, who gives an advanced course in Legal Argument in the third year has agreed to lend us a hand in this phase of the work with the freshmen this year.

I should like to emphasize again that at each stage the student work is subject to the critical scrutiny and comment of a teaching Fellow, and it is this close criticism more than anything else that is the key to the program. Each year the Fellows find that the interviewing of the individual students is fascinating and that the articulating of one's criticism of *this* student's work is a remarkably exacting but rewarding task.

We do not view the course then either as one in legal bibliography or as one in English composition, although we expect as a result of it that the student will have thorough familiarity with the tools of the law library and that he will write more effectively and clearly than when he began. The program is not without its difficulties. Inevitably not all of the student work is as good as it should be. Nor is it easy to devise work that will be manageable for the students and rewarding for the staff at the same time. And the program is expensive in money, time, and energy. It is perhaps something of a luxury. But after fifteen years of working with it and observing it in action, we are inclined to the view that it is the sort of luxury that no first-rate law school can afford to do without.

'12 Is 40 (Continued from page 7)

ence between the technique of teaching "the law" between then and now. Then the case system was inviolate. The capsule method predominated. Contracts, property torts, sales, agency, common-law pleading, trusts, equity, conflicts—whatever in any one of these courses would give some inkling that there was any other body of law was minimized and passed over with the same embarrassment that a parent exhibits when asked "questions" by the prying, but a graduate, who was not an expert on conditions precedent, subsequent, concurrent, dependent, independent, was one who had wasted his time. While the graduate of today will glibly advance the proposition that employment contracts and construction contracts have little or no relationship with other contracts and that the decided cases involving these are based on different and varying rules, the graduate of the 1912 class was of a different opinion. There might be exceptions—there always were—but the basic and fundamental rules were the same. The 1912 graduate who knew anything about accounting was "a sport" but, on the other hand, he knew, or ought to have known, that assumption of risk would be a fairly potent defense in a tort suit by employee against employer.

There were a few who concerned themselves with such practical facets of the law as Interstate Commerce. This concern was limited to Saturdays, and I believe that Percy Eckhart had a very small class. There was also a Saturday course given by Henry Porter Chandler, the title of which is not known and research has not disclosed.

There was, of course, no course on Federal Taxation; in fact, that foul subject had been interred by an opinion found in the casebook on constitutional law. Federal Trade Regulation was probably touched upon in the same course, although the newspapers were then writing vociferously about trust-busting. The law was undiluted by psychology, history, economics, sociology, and others of their ilk. However, in the summer of 1911 a course in Administrative Law was given by Ernst Freund. It is believed that such a course had not theretofore been offered by any other law school.

It would seem that three periods, aggregating thirty-six weeks each, provided more classroom time than should have been required for the education of a lawyer in that decade, but the class of 1912 found it heavy going.

Notwithstanding the Dean's appraisal, the Order of the Coif established a chapter at The University of Chicago Law School in the spring of 1912, and five members of the class were initiated. The Dean characterized the ritual as a cross between D.K.E. and the Masonic Order. Since two of the initiates became Federal Circuit Judges, one never practiced law, and the other two have met with some little success, the Dean may have been wrong, unless, as has been intimated, intellectual prowess is not essential for elevation to the bench or, perhaps it may be fair to add, success in the practice of law.

Law Review (Continued from page 13)

to the first of the University of Chicago Law Review Symposiums, a *Symposium on Labor Relations and Labor Law* which numbered among its contributors Cyrus Eaton, Lloyd Garrison, Lee Pressman, Wayne Morse, and Paul Douglas. Number Four contained the chapter on the ex post facto clause from Professor Crosskey's soon-to-be-published book.

Volume Fifteen was almost equally noteworthy. It contained several articles on Illinois' "antiquated constitutional and legal system," Professor Levi's famous *Introduction to Legal Reasoning*, and a *Symposium on Atomic Energy for Lawyers*, as well as the first of John Frank's annual series for the *Review* on the Supreme Court Term. Volume Sixteen brought forth a symposium entitled *Reflections on Law, Psychology, and World Government*, with discussions by Robert Hutchins, Wilber Katz, and the omnipresent Malcolm Sharp among others. In Number Four of this volume Deans Bigelow and Katz marked the retirement of George Bogert, and Dean Katz passed some remarks on the "curious system which enables the Hastings School of Law to reach national fame through the rigid policies of other schools."

In its last two years of publication the *Review's* symposiums have reached maturity with an entire issue, including student work and book reviews, being devoted to facets of a single topic. The *Symposium on Congressional Investigations* in the Spring of 1951 created a demand for an unprecedented second printing; Volume Nineteen's symposium was on *The Modern Corporation*. Volume Twenty, marking twenty years of the *Review* and fifty years of the Law School, will include a topical *Symposium on Civil Rights and Liberties*.

This recitation of some of the *Review's* major articles might seem to belie the earlier justification of a law review as training and education for its staff. And indeed each class of editors strains to believe that its review is unique, that its special brand of composition would not rest comfortably in other pages, and that the sea of law reviews could not spill over into the gap of its review's absence. But leaving this matter to others so far as our *Review* is concerned, the host of student notes has not been mentioned because the cheerless, workman-like jobs do not lend themselves to fame. They are for the recesses of the office and the weighing of delicately balanced arguments. The precision and refinement which goes into a student comment may have found its way into many a brief, at least so we fondly hope, but it is not for separate mention. To it goes a kind of anonymous glory, and in it, however much we talk about brighter lights, lies our real pride.

ALEXANDER POLIKOFF
Editor-in-Chief

The Summer Quarter

In the second year of its re-established Summer Quarter, The University of Chicago Law School was an exciting and busy place. Two courses were open to beginning law students, with the regular faculty represented by Wilber G. Katz, James Parker Hall Professor of Law, offering his course in Accounting, Allison Dunham teaching Trusts, Bernard Meltzer holding forth on Evidence, and Edward H. Levi offering a seminar on Unfair Trade Practices.

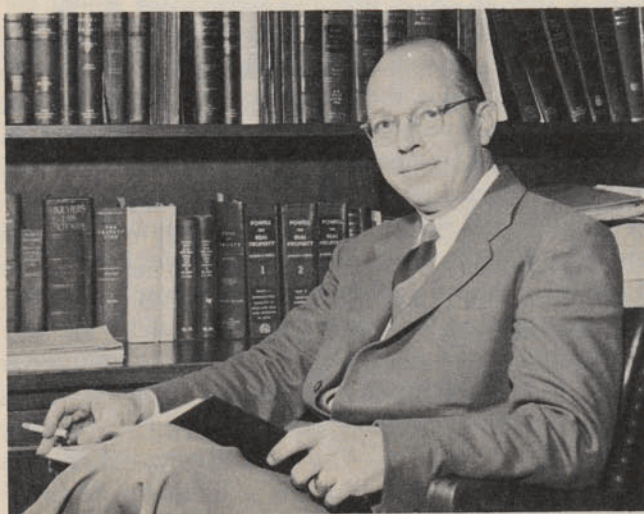
In addition to the regular faculty, four visiting professors taught at the School, three of them alumni. Jerome Hall, '23, of the University of Indiana Law School offered Criminal Law and Procedure; Philip Mechem, '26, of the University of Pennsylvania Law School taught Torts; and Casper W. Ooms, '27, of Dawson and Ooms, Chicago, presided over a seminar on Patent Law. Coming to the Law School from the University of Pittsburgh, where he is law school dean, Brainerd Currie taught Conflict of Laws.

We regret that our photographer's confused time schedule prevented our obtaining photographs of Mr. Mechem and Mr. Ooms.

Elsewhere in this issue of the *Record* we have reported on the seminar for police, "The Police and Racial Tensions." The seminar brought many new faces to the Law School building, and highlights of the meeting were the public lectures by Jerome Hall on "The Police and the Law in a Democratic Society" in three sessions covering the topics "Standards," "Arrest," and "Evidence." The concluding lecture in the series by Professor Harry Kalven was on the subject of "The Law of Racial Discrimination."



Jerome F. Hall



Brainerd Currie

Rollo (Continued from page 4)

chase those things when they have been taken away from his house by armed robbery. But carrying this kind of fossil-approach forward into the modern market, that is rather a small piece of price to pay for the achievement of a situation in which armed robbers do not come around as a normal thing; in which we no longer wall our houses or our villages; in which we have around us, as a normality, a thing that we have come to know so well that we have almost lost the old word for it: the Peace—a regime under which you can go about your business, most of the time, without fear of raids—and raids were raids in the good old days, and the good old days are not so far back. In English history the "good old days" of raids at practically any time at all are still in full swing at the end of Elizabeth's reign, for example. And in this country, I do seem to recall the early history of a State now known as Kansas, which reminds you of a good deal of that, and you will find a good deal more of it all up and down the East shore of the Mississippi too, until the time of the steamboat.

This achievement is something which today we simply take for granted. What, then, if in the process we have to overstress this or that minor idea and carry it along for a considerable distance in a fashion which is not too well adjusted to modern times. Take the most recent instance that I know of in this connection; think of how pleasant it must have been to be a resident of Germany in the days immediately following the last war when our soldiers were, as they so blithely put it, "liberating" things of one kind or another.

So then, I say, much that seems silly may have reason that is to some extent still wanted. Some of it is of course utterly silly, irrevocably silly, hopelessly silly, because the grain of horse-sense of which Miss Mentschikoff spoke was sometimes the supposed horse-sense of a silly person who happened to be in a key position, and who thus got a piece of utter nonsense made law which nobody had ever taken out. Or it may be almost completely obsolescent or obsolete; the circumstances which made it sense once may now be largely or wholly gone. There is, for example, in the law of promissory notes² a body of material that has to do with how a good faith purchaser for value, known technically as a holder in due course, can take that note free of practically all defenses of the man who made it. So that even if the man who made it has paid it, or even though he never got anything for it, or even though he gave it as the price of a stove that blew up in his face the next day, he still has to pay up to this bona fide purchaser for value whom we call tech-

² A reader of legal training will be good enough to observe that the discussion is about *promissory notes*. It is not about checks or securities, in regard to which I have done my best to press negotiability far beyond traditional bounds (Uniform Commercial Code, Arts. IV and VIII); nor is the discussion about acceptances, which still have a useful general market. This discussion is not about "negotiable instruments," I may repeat, but about what it is about.

nically a holder in due course. And there was some sense in that rule in the days when notes were for substantial purposes the currency of the country—to a degree perhaps even greater than the check is the currency of the country today. But nowadays notes for the price of goods don't travel like that. Nowadays when the man who takes a note for the price of goods transfers the note, he transfers it to a single person who holds it from there on through until the note is dead. And who is the single person? The single person is either the finance company or the bank which is regularly financing that particular seller and which knows his business about as well as he himself knows his business, and the conception of wiping out defenses otherwise good by that kind of transfer is enough to stink in the nostrils of any fresh-minded person who approaches the picture.³ But do you realize that



Stuart Hyer in his room in Beecher Hall, the new Law School residence. Mr. Hyer, whose home is in Rockford, Illinois, is a first-year student in the Law School. His father, Stanton E. Hyer, received his J.D. from the School in 1925 and served last year as one of the state chairmen for the Law School Alumni Fund drive.

the law of negotiability of notes is dear to the hearts, the souls and the gizzards of the entire Bar? A hundred and seventy thousand men (less three: Miss Mentschikoff, me and one other)—a hundred and seventy thousand men rise, join, lock shields and march with uplifted spears shouting: "Down with any attack at all upon Negotiability!" Because when they were in law school they learned to meet negotiability, they learned to love it, they learned to believe in it not by reason or for reason, but as the order of the legal universe. They feel about any change in "it" the way a dairy farmer feels about the change to daylight saving time.

Now there are values in human emotions, even when directed to what may appear, in the light of more dis-

³ For any reader of legal training I should add that in my view bankers' collateral notes belong, in broad policy, in this same general category: in *policy*, their negotiability gains nothing for the public. Contrast note-brokers' notes.

tant and dispassionate reason, to be dubious ends. And there again you as a lawyer will have to get ready to deal with that kind of passionate affection for even what may appear to you to be utterly absurd or even evil. I think, therefore, that we must take as the first lesson for little Rollo, in this aspect, what is probably the wisest thing that Abraham Lincoln ever said: "God must love the common man," you recall he said, "because he made so many of him."

The common man is the man with whom your law practice is going to have to deal. In the first place, he is the fellow on the bench. There is an odd fellow on the bench here and there—you are going to meet one in the speech on the 8th—there is an odd fellow around who is smarter than any one of you will ever hope to be. Wyzansky is of that caliber. But the very fact that he is so good makes him stand out with curious uniqueness, the way Everest peak would stand out on Western plains. Most judges are just plain people, to start with; people with a very large range of respectable horse-sense, people with a proper attitude toward their duty to do what they can to promote justice and to do that job under and with and within the law. But on the whole, they made C grades in a second-rate law school, and it was because of the nature of their minds that they did. They didn't have this sharp diamond-hard mind, so beloved of so many of the faculties in the so-called best law schools, delighting in a distinction too fine for any normal man to even see without a microscope, and grading students A if they can make that kind of distinction on an examination paper instead of using horse-sense. Most judges are not like that kind of professor. They are Lincoln's common men, and rather the nicer kind of common man, on the whole. Very average in their brains. Better, much better, than average, in their judgment; and in their feeling for high duty.

Your clients are going to be the same kind of egg in regard to brains. In the course of thirty years you may get three or four extraordinary clients. If you do, it is a thing to cherish. Some fine old buccaneer, who should have been sailing the Spanish main and has had to take it out on business, but who still has the sturdiness and the verve and the pungency that goes with that kind of personality. On the whole, however, your clients are going to be little guys, they are going to be average guys, many are going to have their extra touch of meanness—which is probably why they came to you, thinking that they would find a fellow in their feeling. They are folks you've got to deal with as they are. They're very human. But they've got lots of good stuff in them, too. And part of your business is to elicit a little more of that than comes out of them normally, because that is always doable, and few people have as good an opportunity to do it as a practicing lawyer with his clients.

And finally, when it comes to legislation, when it comes to influencing public opinion, when it comes to any of the bigger jobs of the lawyer, the common man

is the fellow known by that name because that is what he is, he is the public. Again, you've got to deal with him as he is.

There is an awful deal of hogwash talk these days about "Democracy." There is this crazy notion that by "the Democratic Process," talking and talking forever, and voting and voting forever, you achieve effective leadership as a normal thing, not as a grand accident, but as a normal thing. And that of course is pure hogwash, as anybody with any sense can see.

There is also this companion feeling that there is something sacred and beautiful about talking forever about things, instead of getting something done.

But that does not alter the fact—that type of hogwash about democracy—that bilge doesn't alter the fact that the idea of "democracy" carries with it deep and fundamental truths that are worth having as *fighting* faiths. For the sense of responsibility to self and society which is the thing we are trying to instil into every decent citizen, and above all into every officer, that sense of responsibility to self and of self, policed by self, is, of course, the fundamental of good and decent government, or of good and decent work in any line. But the fact is that we do not do a hundred percent job on getting that sense instilled. We never have done it and it doesn't look as if in our lifetime we shall be able to get it done: one hundred percent. So that when that sense of responsibility fails on the part of any officer, there has got to be *machinery* for bringing him to book, for facing him squarely with the responsibility which he is seeking to evade. There's got to be, I say, *machinery* for that purpose; and also it's got to be machinery which isn't of a character that will block off all the doing and all the leading that need doing during the process, when we aren't occupied in bringing the mistaken guys to book.

And who makes that machinery? Who devises it? Who passes it as a legislator? or who sells it to the legislator to pass? And who administers it in its operation from the top to the bottom? (And let me tell you, the bottom is the place where it counts most!) That's lawyers' work. And it is only one-third done as yet under our Bill of Rights, our system of divided powers, our highly complex and still most baffling procedure, especially in the criminal field. All you have to do to realize how close that problem is to you, today, as a problem almost completely unsolved, is to watch the process of legislative investigation today, with its effects of character-assassination on people who have no chance to answer the accusations and the publicity given those accusations. No man can doubt that the process of legislative investigation is fundamental to our polity but neither can any man doubt that we do not yet have the first beginnings of an idea of what sound rules of procedure in legislative investigation would be, which would leave utterly free the full play needed for getting at the facts, and at the same time hold the excrescences within bounds. That is a typical lawyer's job, and it faces your



Professor Malcolm P. Sharp and University Dean of Students Robert M. Strozier seen with a group of law students at the opening of the Beecher Hall Law School Residence.

generation. It is a growing lawyer's job of the kind that went into the Bill of Rights itself—which has its history, you will recall, not only of interpretation since we got it, but its prior history of centuries of groping toward the idea before we got around to a framing of our own first version of machinery to make the idea real.

Hence, it is quite clear that in the matter of diagnosis of trouble—a most difficult thing in the field of human relations—accurate diagnosis: not simply "that it hurts," but "where and why it hurts," and "how much it hurts," and "whether the hurt might not be beneficial" as some pain we well know is—and in the matter of devising an effective measure—and, finally, I repeat, in getting into the operation at any stage from the top all the way down to the very bottom day to day and hour to hour or in the crucial decision for a century—these are things which call for the lawyer's skill in ways and means, and which set out what *his* peculiar calling is. And these are things that we must go after by grubbing into dirty detail, by seeking to learn how, by seeking a habit of accuracy, by getting ready to answer now and hereafter, hereafter and now, the calls upon our time. Law and obstetrics wait not upon our leisure.



The girls of The Law School not only win scholarships and edit the Law Review but they do a cum laude job of serving cake at an open house.

When I was in school in those good old days (which are always good because they are old) there was still one very worth-while feature of the top-notch full-time law school. That was that it moved on what was a roughly 70-hour week for the worth-while students. (The more skilful sliders got along with fifty.) That delightful condition has disappeared, to some extent. It lasted pretty well through the period of the second World War. But with the GI bill of rights, there came back into the law schools a tremendous influx of students, as to whom there was a greatly benevolent point of view on the part of the law faculties, because instead of granting them degrees without doing any law study, as had been done at the close of the first world war, the faculties took themselves firmly by the necks and said: "We must preserve the public from an untrained lawyer! So," they said, "we will make them go back to school!" Then, having made that decision, they said, "Oh my! Oh my! the poor dears," and they let their standards just go down like this. . . . In addition to which so many of the GI bill of rights boys were married; and who wants a returning soldier to be kept away from his wife by a 70-hour week? Furthermore, there wasn't any reasonable place for them to live, so a lot of them lived God knows how far away, operating with car pools out of nowhere, and the amount of time it took them to go back and forth used up those hours. And children do use up time. So the standards of labor went down, down, down. And it only takes three years for a completely new generation to inhabit a student body in the law. By the time the GI bill of rights had done its excellent work in other fields, the standard working week on classes for a student of law in the best full-time schools had dropped to something like fifteen hours, in addition to class time, and you attended classes if you felt like it. And you only occasionally used the rest of your time on things contributing to a legal education.

I am glad to say, my dearly beloved hearers, that at the University of Chicago Law School it has ceased to be. *We* are back on the ball. Now, I do not counsel you to put in 70 hours of actual reading, writing and class attendance. I would say limit that to about 55 or 60 hours. You can very properly put in the other ten in letting it simmer and cook, by talking with your friends about matters of the law. Cooking time is worth-while time. You will even find that you will get a fair amount of cooking out of a brisk walk, a game of tennis or something else that stimulates the red corpuscles. But we're back on the ball, as I say, and that is good news.

I have now a brief message to Rollo's Little Cousin. He is not here with starry eyes. His eyes remind you of a depression banker when you are asking for a loan. He is here because he read about a million-dollar fee that some lawyer got on something, and he says: "That's the game for me."

He had better quit. The reasons why he had better quit are very simple. If he had been coming to law school

in 1875 without the ideals he hasn't got but with the ability to acquire some good sharp techniques (which we can give him, if he has got anything inside his head at all), if he had been coming in 1900, he would still have had an excellent bet at the Bar, an excellent opportunity to get ahead. It can even be said that, in the main, the presence of ideals or even vision was rather a handicap than not for most of the men who were coming in to the law at those dates. But by 1925 that situation had very materially changed. By 1950 it had ceased to be a good bet to have that attitude in going to the Bar, it had become a serious professional handicap, a difficulty in the effective vision and imagination needed for doing a job that paid the rent. I do not say that there aren't lawyers at the Bar today, in reasonable number, who have made money even out of their practice, and even without ideals. I do say that they are rare in terms of percentage of the gang as compared with any respectable line of business.

In addition to which, the income that is available to the Bar at large has long ceased to be what that income was. There is not merely the fact that professional men have much greater difficulty in keeping a slice of their earnings from the government than do people who can operate in terms of "capital gains." The income-tax law recognizes no capital gains in your brain. It is not only that. It is also that the type of opportunity open to the lawyer is no longer anything like what it was, when viewed in terms of money-making. So then it becomes a necessity with the ordinary man of the law to adjust his top financial ambitions to a reasonable living, instead of figuring as a not too unlikely thing that if he has a touch of luck he can rival his investment banking neighbor. No longer, I say, is that the case. If that is what you are after, go into business where the getting is easier and will cost you less in the way of personal dignity, and indeed, in the long run, of personal happiness. It's a queer thing, a very queer thing indeed to see the effects of living with money as the goal on a lawyer at about the time his sons get to the age of twenty, or his daughters. It isn't a pleasant thing to see. No, law and the work of law and the men of law, they all go dead, unless they can accomplish effective trouble-shooting in any human relation, and unless they keep an eye out for the welfare of all of us. "Technique without ideals is a menace"—even to the technician. That is for Rollo's cousin. But for Rollo: "Ideals without technique are a mess."

So that we in this School have got to put the two together and, by the same token, we shall devote our schooling of you largely to lawyering, to the hows of effective doing of the craftsman's job. Inevitably—as you will see—that leads to a study and to an appreciation and an evaluation also of the ideals of the craft and of its goals. But not "The Law," the rules of law, any knowledge about things that are in books, is what we are primarily after. We are after exercise in the craftsmanship jobs. And that is why there is no substitute for classwork. Only in classwork do you get a chance to go through the



An informal group of law students in the Beecher Hall lounge taking time out between Law School classes and Law Review rewriting.

exercise. The bookwork you can do for yourself. You ought to be able to read, by now, in the large; and at the end of another nine months, I trust that you would have learned the new art of reading in the accurate particular. Quite a different art. It has as little to do with the art of reading in the large, as, let us say, watch-making, on the one hand, has to do with mowing a lawn, on the other. Each one involves moving machinery, but you don't play them the same way, and excellent mowers of lawns have been known to fail at the repair of watches. In a similar fashion, your skill at absorbing 80 pages, all the fine ideas, quick like that—in the course of 20 minutes, is worth exactly nothing when it comes to the exact point on page 2, at line 19, which is the crux of the case, or with seeing whether or not a similar point, as put forward by the court, will stand up as a "holding" on which you can rely when acid-tested by the procedural issue and by the particular point of appeal that had been brought before that court. And of course when you get to the statutes: commas can make or break necks in a statute. And the words will not change for you. You cannot paraphrase. There the darn thing sits; and it says what it *says*. The only thing that you can do with it is to see whether you can make it *mean* something different. But the language that you work with, sits. . . . In reading it, there indeed is art, and there is the most joyous of the lawyer's arts. My old chief used to say to me: "To make the sterile shoot of fact put forth the buds of fancy: That's a lawyer's job." At any rate it's a lot of a lawyer's fun; and I think it's a fruitful job as well.

So it's lawyering, I say, that we shall try to teach.

We can begin at once. You know that this is to be a discussion class. One of the things that you are going to do as a lawyer that you haven't done too much of yet, is to talk on your feet. By the same token, discussion in this class will be conducted on your feet. When you have something to say, you climb onto your hind legs and give forth. This not only as a matter of accustoming you to phrasing and standing up in a discussion on your feet. There are other values, and the other values are also very real. For example, if you are in the back of the room, you will be able to be heard in the front of the

room very much better if you talk on your feet. Almost anybody can mumble like this—into his book—but it is very hard to mumble entirely into your book when you get on your feet, even when you are trying not to talk too loud; the voice comes out a little more. That's good for everybody. If on the other hand you're in the front, and you're still sitting down, you are going to be trying to carry on a little private conversation with me, and people in the back are not going to hear a thing. On the other hand if you get up you cannot carry on a private conversation, because you realize that you are talking for the crowd—So far Point number 1.

Point number 2 in our discussion class is that it moves quite regularly in terms of one man serving as the scapegoat for all. As the Dean pointed out, you need to be carrying on between your own ears your own private piece of the discussion. When the instructor asks a question, you ought to be busy answering it, not waiting for the other guy. He, on the other hand, does have control of the discussion in that it is from his answer that the further discussion will develop. He owes us therefore a duty of accurate, fair, frank answer. When he finds that he has made an ass of himself, it is not his business to try to save his face by evading the question. So when I ask him, "Do you *still* mean apple pie?" and what he says is, "My desire has always been to live in Rome," that is a waste of time, and is to be regarded as Contempt of Class. And will be so dealt with. On the other hand, it also becomes the instructor to see to it that no man who is serving as the scapegoat for all should be made fun of for making blunders. There will be no fun made of anybody in this class for making blunders. I shall not poke fun at him, and you will not laugh at him. He is suffering for the common weal.

One last thing, to sum up the process of learning by doing, actively or in sympathy as you watch it go: it calls for *Pre*-doing; it calls for the actual process of the group-work, which I will call *We*-doing. But then, and above all, for the lessons to drive home after you have seen what the job should be, it calls for *Re*-doing. . . .

I never expect again to look upon your faces with such innocent sweetness shining from your eyes as now. Instead, I take it, I shall be looking upon incipient lawyers. I welcome you to your entrance upon what I and many others have come to feel is perhaps the noblest calling known to man.

The Law School Record

A Quarterly Publication
for the Alumni of the
University of Chicago Law School
Chicago 37 • Illinois

